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| EXAMINER | |
|---|---|
| SELBY, GEVELL V | |
| **ART UNIT** | **PAPER NUMBER** |
| 2615 | |

DATE MAILED: 12/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| Office Action Summary | Application No. | Applicant(s) | |
|---|---|---|---|
| | 09/858,454 | YAMAGISHI, YOICHI | |
| | Examiner | Art Unit | |
| | Gevell Selby | 2615 | |

*-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4)☒ Claim(s) *1-151* is/are pending in the application.

4a) Of the above claim(s) *11-20,30-38,40,50-58,67-74,76,81-86 and 91-151* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10, 21-29, 39, 41-49, 59- 66, 75, 77-80, and 87-90* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

**Application Papers**

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 May 2001* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☒ Interview Summary (PTO-413) Paper No(s)/Mail Date. *20041018* .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☒ Other: *Election/Restriction*.

## DETAILED ACTION

### *Election/Restrictions*

1. This application contains claims directed to the following patentably distinct species of the claimed invention:

First species: figures 1-10.

Second species: figures 11-17.

Third species: figures 18-22.

Fourth species: figures 23-27.

Firth species: figures 28-30.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, there is no generic claim.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2. During a telephone conversation with attorney Lenard Diana on 10/22/04 a provisional election was made without traverse to prosecute the invention of the first species, claims 1-10, 21-29, 39, 41-49, 59- 66, 75, 77-80, and 87-90. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-20, 30-38, 40, 50-58, 67-74, 76, 81-86, and 91-151 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 703-305-8623. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gvs

## DETAILED ACTION

### *Election/Restrictions*

1. Claims 11-20, 30-38, 40, 50-58, 67-74, 76, 81-86, and 91-151 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the telephone interview on with attorney Lenard Diana on October 18, 2004.

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**2. Claims 1, 3-6, 8, 10, 21, 23-26, 28, 39, 41, 43 - 45, 47, 49, 59, 61 - 63, 65, 75, 77-80, and 87-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Ward et al., US 6,784,924.**

In regard to claims 1 and 21, Ward et al., US 6,784,924, discloses an image sensing system and method for operation the system comprising at least one image sensing apparatus (see figure 1, element 10) and at least one communication apparatus (see figure 1, element 14), wherein said communication apparatus comprises transmission means for transmitting an operating status of said communication apparatus to said image sensing apparatus (see column 3, lines 60-65); and

said image sensing apparatus comprises image sensing means (see figure 1 element 22), reception means (see figure 1, element 32) for receiving the operating status transmitted from said transmission means (see column 3, lines 60-65), first status determination means for determining the operating status of said communication apparatus, which is received by said reception means (see column 3, lines 60-65), and display means (see figure 1, element 24) for displaying the operating status of said communication apparatus in accordance with a determination result by said first status determination means (see column 3, lines 60-65).

In regard to claims 3 and 23, Ward et al., US 6,784,924, discloses the system according to claims 1 and 21, respectively, wherein said communication apparatus and control method for the apparatus that executes authentication processing for said image sensing apparatus (see column 3, lines 53-56), and when authentication is successful, transmits the operating status to said image sensing apparatus (see column 3, lines 60-65).

In regard to claims 4 and 24, Ward et al., US 6,784,924, discloses the system and control method according to claims 1 and 21, respectively, wherein said image sensing apparatus further comprises second status determination means for determining an operating status of said image sensing apparatus (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), and the operating status of said communication apparatus includes an operating status of a communication function of said communication apparatus (see column 3, lines 60-65), the operating

status of said image sensing apparatus is an operating status of an image sensing switch of said image sensing apparatus (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), and said display means displays the operating status of the communication function in accordance with a determination result of the status of the image sensing switch by said second status determination means (see column 2, lines 41-47: The display device displays the image captured).

In regard to claims 5 and 25, Ward et al., US 6,784,924, discloses the system and control method according to claims 4 and 24, respectively, wherein when the determination result by said second status determination means represents that image sensing is being prepared for or image sensing is progressing (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), display of the operating status of said communication apparatus by said display means is stopped (It is inherent that the display of the status of the communication device, whether "transfer in progress" or transfer complete", is not displayed when an image is being captured because the transfer of the image has not yet begun).

In regard to claims 6 and 26, Ward et al., US 6,784,924, discloses the system and control method according to claims 4 and 24, respectively, wherein when the determination result by said second status determination means represents that image sensing is being prepared for or image sensing is progressing, frequency of display of the operating status of said communication apparatus by said display means is made lower

than that when image sensing is not being prepared for or image sensing is not progressing stopped (It is inherent that the display of the status of the communication device, whether "transfer in progress" or transfer complete", is not displayed when an image is being captured because the transfer of the image has not yet begun).

In regard to claims 8 and 28, Ward et al., US 6,784,924, discloses the system and control method according to claims 4 and 24, respectively, wherein the operating status of said image sensing apparatus includes operating status of an image sensing function of said image sensing apparatus (see column 2, lines 41-47: The camera discloses the operation status of image sensing by displaying the image captured).

In regard to claim 10, Ward et al., US 6,784,924, discloses the system according to claim 1, wherein said display means for displaying the operating status of said communication apparatus is used for image sensing by said image sensing apparatus (see column 2, lines 43-44).

In regard to claim 39, Ward et al., US 6,784,924, discloses an image sensing system and method for operation the system comprising at least one image sensing apparatus (see figure 1, element 10) and at least one communication apparatus (see figure 1, element 14), wherein said communication apparatus comprises transmission means for transmitting an operating status of said communication apparatus to said image sensing apparatus (see column 3, lines 60-65); and

said image sensing apparatus comprises image sensing means (see figure 1 element 22), reception means (see figure 1, element 32) for receiving the operating status transmitted from said transmission means (see column 3, lines 60-65), first status

determination means for determining the operating status of said communication apparatus, which is received by said reception means (see column 3, lines 60-65), and display means (see figure 1, element 24) for displaying the operating status of said communication apparatus in accordance with a determination result by said first status determination means (see column 3, lines 60-65). It is inherent that the microprocessors of the Ward reference's camera and communication device contains a computer program in its memory in order for the camera to operate and perform these functions.

In regard to claims 41 and 59, Ward et al., US 6,784,924, discloses an image sensing apparatus (see figure 1 element 10) and control method for the apparatus capable of transmitting image data to an external communication apparatus by communication, comprising:

image sensing means (see figure 1, element 22);

reception means (see figure 1, element 32) for receiving an operating status of said external communication apparatus from said external communication apparatus(see column 3, line 60-65);

first status determination means (see figure 1, element 34) for determining the operating status of said external communication apparatus, which is received by said reception means (see column 3, lines 60-65); and

display means (see figure 1, element 24) for displaying the operating status of said external communication apparatus in accordance with a determination result by said first status determination means (see column 3, lines 60-65).

In regard to claims 43 and 61, Ward et al., US 6,784,924, discloses the system and control method according to claims 41 and 59, respectively, further comprising second status determination means for determining an operating status of the image sensing apparatus (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), wherein the operating status of said external communication apparatus includes an operating status of a communication function of said external communication apparatus (see column 3, lines 60-65), the operating status of the image sensing apparatus is an operating status of an image sensing switch of the image sensing apparatus (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), and said display means displays the operating status of the communication function in accordance with a determination result of the status of the image sensing switch by said second status determination means (see column 2, lines 41-47: The display device displays the image captured).

In regard to claims 44 and 62, Ward et al., US 6,784,924, discloses the system and control method according to claims 43 and 61, respectively, wherein when the determination result by said second status determination means represents that image sensing is being prepared for or image sensing is progressing (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), display of the operating status of said external communication apparatus by said display means is

stopped (It is inherent that the display of the status of the communication device, whether "transfer in progress" or transfer complete", is not displayed when an image is being captured because the transfer of the image has not yet begun).

In regard to claims 45 and 63, Ward et al., US 6,784,924, discloses the system and control method according to claims 43 and 61, respectively, wherein when the determination result by said second status determination means represents that image sensing is being prepared for or image sensing is progressing (see column 2, lines 41-47: It is inherent that when the user inputs the command using the input buttons to capture an image the processor recognizes the command and performs the operation), frequency of display of the operating status of said external communication apparatus by said display means is made lower than that when image sensing is not being prepared for or image sensing is not progressing (It is inherent that the display of the status of the communication device, whether "transfer in progress" or transfer complete", is not displayed when an image is being captured because the transfer of the image has not yet begun).

In regard to claims 47 and 65, Ward et al., US 6,784,924, discloses the system and control method according to claims 43 and 61, respectively, wherein the operating status of the image sensing an operating status of an image sensing function of the image sensing apparatus (see column 2, lines 41-47: The camera discloses the operation status of image sensing by displaying the image captured).

In regard to claims 49, Ward et al., US 6,784,924, discloses the apparatus according to claim 41, wherein said display means for displaying the operating status of

said external communication apparatus comprises display means used for image sensing by the image sensing apparatus (see column 2, lines 43-44).

In regard to claims 75, Ward et al., US 6,784,924, discloses an image sensing apparatus (see figure 1 element 10) and control method for the apparatus capable of transmitting image data to an external communication apparatus by communication, comprising:

image sensing means (see figure 1, element 22);

reception means (see figure 1, element 32) for receiving an operating status of said external communication apparatus from said external communication apparatus(see column 3, line 60-65);

first status determination means (see figure 1, element 34) for determining the operating status of said external communication apparatus, which is received by said reception means (see column 3, lines 60-65); and

display means (see figure 1, element 24) for displaying the operating status of said external communication apparatus in accordance with a determination result by said first status determination means (see column 3, lines 60-65). It is inherent that the microprocessor of the Ward reference's camera contains a computer program in its memory in order for the camera to operate and perform these functions.

In regard to claims 77 and 87, Ward et al., US 6,784,924, discloses a communication apparatus (see figure 1, element 14) and control method for the apparatus capable of receiving image data from an external image sensing apparatus by communication (see column 3, lines 57-60), comprising transmission means for

transmitting an operating status of said communication apparatus to said external image sensing apparatus (see column 3, lines 60-65).

In regard to claims 78 and 88, Ward et al., US 6,784,924, discloses the apparatus according to claim 77 and 87, respectively, wherein the communication apparatus executes authentication processing for said external image sensing apparatus (see column 3, lines 53-56), and when authentication is successful, transmits the operating status to said external image sensing apparatus (see column 3, lines 60-65).

In regard to claims 79 and 89, Ward et al., US 6,784,924, discloses the apparatus according to claim 77 and 87, respectively, wherein the operating status of the communication apparatus includes at least one of an operating status of a power source function and an operating status of a communication function of the communication apparatus (see column 3, lines 60-65).

In regard to claims 80 and 90, Ward et al., US 6,784,924, discloses the apparatus according to claim 79 and 89, respectively, wherein the operating status of the communication function includes a call termination notification status.

## *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**4. Claims 2, 7, 9, 22, 27, 29, 42, 46, 48, 60, 64, and 66 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ward et al., US 6,784,924.**

In regard to claims 2 and 22,Ward et al., US 6,784,924, discloses the system control method and sensing apparatus according to claims 1 and 21, respectively. The Ward reference does not disclose wherein said image sensing apparatus executes authentication processing for said communication apparatus, and when authentication is successful, allows said display means to display the operating status of said communication apparatus.

Official Notice is taken that it is well known in the art to use encryption and decryption of data when transferring the data over a communication line such as the Internet in order to protect the data and make sure it is coming from the correct sender. It would have been obvious to one of ordinary skill in the art to have been motivated to configure the system of the Ward reference to encrypt and decrypt data transferred to the apparatuses and display valid data in order to protect the data and provide the user with accurate information.

In regard to claims 7 and 27,Ward et al., US 6,784,924, discloses the system and control method according to claims 4 and 24, respectively. The Ward reference discloses that the communication function uses a communication protocol but does not disclose that the operating status of the communication function includes a call termination notification status.

Official notice is taken that is it is well known in the art to send a call termination status to the other user to notify them of the termination of the communication.

Therefore, it would have been obvious to one of ordinary skill in the art to have been motivated to configure the system of the Ward reference to have the operating status of the communication function include a call termination notification status in order for the device on the other side of the communication to know not to wait for any more data transmissions or send any more data and lose information.

In regard to claims 9 and 29, Ward et al., US 6,784,924, discloses the system and control method according to claims 8 and 28, respectively, wherein the operating status of the image sensing function is an image sensing mode (see column 2, lines 41-47). The Ward reference does not disclose that the operating status of the power source function is a status of a power switch of said image sensing apparatus.

Official Notice is taken that it is well known in the art for the camera to have a power source switch to turn on the camera so it can operated and turn off the camera to save the power when the camera is not in use. Therefore, it would have been obvious to one of ordinary skill in the art to have been motivated to configure the camera of the Ward reference to have a power source switch and a power source function to monitor the operating status of the switch to turn the camera on and off in order to save power.

In regard to claims 42 and 60,Ward et al., US 6,784,924, discloses the system and control method according to claims 41 and 59, respectively. The Ward reference does not disclose wherein said image sensing apparatus executes authentication processing for said communication apparatus, and when authentication is successful, allows said display means to display the operating status of said communication apparatus.

Official Notice is taken that it is well known in the art to use encryption and decryption of data when transferring the data over a communication line such as the Internet in order to protect the data and make sure it is coming from the correct sender. It would have been obvious to one of ordinary skill in the art to have been motivated to configure the system of the Ward reference to encrypt and decrypt data transferred to the apparatuses and display valid data in order to protect the data and provide the user with accurate information.

In regard to claims 46 and 64, Ward et al., US 6,784,924, discloses the system and control method according to claims 43 and 61, respectively. The Ward reference discloses that the communication function uses a communication protocol but does not disclose that the operating status of the communication function includes a call termination notification status.

Official notice is taken that is it is well known in the art to send a call termination status to the other user to notify them of the termination of the communication. Therefore, it would have been obvious to one of ordinary skill in the art to have been motivated to configure the system of the Ward reference to have the operating status of the communication function include a call termination notification status in order for the device on the other side of the communication to know not to wait for any more data transmissions or send any more data and lose information.

In regard to claims 48 and 66, Ward et al., US 6,784,924, discloses the system and control method according to claims 43 and 61, respectively, wherein the operating status of the image sensing function is an image sensing mode (see column 2, lines 41-47). The

Ward reference does not disclose that the operating status of the power source function is a status of a power switch of said image sensing apparatus.

Official Notice is taken that it is well known in the art for the camera to have a power source switch to turn on the camera so it can operated and turn off the camera to save the power when the camera is not in use. Therefore, it would have been obvious to one of ordinary skill in the art to have been motivated to configure the camera of the Ward reference to have a power source switch and a power source function to monitor the operating status of the switch to turn the camera on and off in order to save power.

***Conclusion***

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following art discloses communication apparatuses that send operating status information to an imaging apparatus:

US 6,522,354,

US 6,775,361,

US 6,675,008,

US 6,069,648.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gevell Selby whose telephone number is 703-305-8623. The examiner can normally be reached on 8:00 A.M. - 5:30 PM (every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Christensen can be reached on 703-308-9644. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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gvs

TUAN HO
PRIMARY EXAMINER